SUPREME COURT OF THE UNITED STATES.

No. 92.

THE UNITED STATES PLAINTIFF,

vs.

CHARLES JENKINS, AND AL.

ON A CERTIFICATE OF DIVISION IN OPINION FROM THE CIRCUIT COURT UNITED STATES SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,
Southern District of New York, ss.

I, Frederic J. Betts clerk of the circuit court of the United States of America, for the southern district of New York, in the second circuit, do hereby certify, that the writings annexed to this certificate are true copies of their respective originals on file, and remaining of record in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this [L. S.] eighth day of February, in the year of our Lord one thousand eight hundred and forty-one, and of the Independence of the said United States, the sixty-fifth.

FRED. J. BETTS,
Clerk.

At a stated term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the City Hall in the city of New York, on Tuesday the second day of June, in the year of our Lord one thousand eight hundred and forty.

Present: The Honorable Smith Thompson, an associate justice of the Supreme Court of the United States, and the Honorable Samuel R. Betts, district judge.

THE UNITED STATES OF AMERICA,
vs.
CHARLES JENKINS, GEORGE LANGDON, JOHN ALLEN, SIDNEY M. JENNINGS, ALEXANDER CHAPIN, JOHN STONE AND WILLIAM CLARK.

On motion of Mr. Butler, United States District Attorney, this cause came on to be heard on a case made.

Mr. Butler opens the argument on the part of the United States.

Mr. Nash argues in reply.

Whereupon, the court being divided in opinion on a point of law, raised by the counsel for the prisoners, ordered that the same be certified to the Supreme Court of the United States at Washington, and which certificate is in the following words, to wit:

The defendants were seaman, and part of the crew of the American ship Georgia, and were indicted in this court for an endeavor to make a revolt on the high seas on board of said ship.

The indictment contained several counts, describing the several offences mentioned in the second section of the act of Congress, approved on the third day of March, one thousand eight hundred and thirty-five, entitled "An act in amendment of the acts for the punishment of offences against the United States," upon which indictment aforesaid, the defendants were arraigned in open court, and severally pleaded at such arraignment in person and by Mr. A. Nash. The defendants having severally pleaded not guilty, the cause was tried on the third day of August, one thousand eight hundred and thirty-nine, when by consent of parties, a special verdict was found, stating the following facts: That the ship Georgia named in the indictment, is a whale ship, and belongs to the port of New London, in the State of Connecticut, where her owner reside. That the defendants were all seamen and mariners, and belonged to the ship, as a part of the crew; that the vessel sailed from New London on the twenty-seventh day of October, one thousand eight hundred and thirty-eight, to go on a whaling voyage to south Georgia and elsewhere, in the south Atlantic seas, and that whilst on her said voyage, the defendants committed the offence charged in the indictment; that the vessel had not been enrolled and licensed under the act of Congress, approved on the eighteenth day of February, one thousand seven hundred and ninety-three, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," to carry on the whale fishery, but had been registered under the act of Congress, approved on the thirty-first day of December, one thousand seven hundred and ninety-two, entitled "An act con-

cerning the registering and recording of ships or vessels." And had proceeded on her voyage, and made the same, and returned to her original port, without any such license, and that registry of the vessel was kept on board during her voyage, and on her arrival at New London, was deposited with the collector at that port.

Upon the argument of the foregoing special verdict, the judges of this court were divided in opinion upon the following question of law:

Whether the ship Georgia was to be regarded whilst engaged under the circumstances above mentioned, as a vessel of the United States, within the meaning of the act of 1835, under which the defendants were indicted.

Which said point upon which the disagreement has happened, is stated above under the directions of the said court, at the request of the counsel for the parties in the cause, and ordered to be certified unto the Supreme Court of the United States at the next session pursuant to the act in such case made and provided.